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**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 161

## **SENATE BILL 1168**

AN ACT

AMENDING SECTIONS 3-268, 3-1206, 3-1372, 3-1373, 3-1374, 3-1375, 3-1376,  
3-1377, 3-1402 AND 41-2706, ARIZONA REVISED STATUTES; RELATING TO  
AGRICULTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-268, Arizona Revised Statutes, is amended to  
3 read:

4 3-268. Inspection fees and reports; violations; classification

5 A. An inspection fee at the rate of twenty cents per ton shall be paid  
6 to the department on commercial fertilizers distributed in this state by any  
7 person subject to the following:

8 1. If more than one distributor is involved in the chain of  
9 distribution, the one who sells directly to the ultimate consumer or to a  
10 distributor exempted from a license is responsible for submitting the tonnage  
11 report and the payment of inspection fees.

12 2. Distributors exempt from a license shall not be responsible for the  
13 filing of tonnage reports or the payment of the inspection fees for products  
14 purchased from a licensee and sold in the form in which received.

15 3. No inspection fees are required for commercial fertilizers sold or  
16 exchanged between licensed manufacturers for further manufacturing or  
17 processing, or for commercial fertilizers on which the inspection fee has  
18 been paid by a previous manufacturer or distributor in the chain of  
19 distribution.

20 4. The minimum inspection fee shall be two dollars per quarter.

21 5. The director ~~may~~, after opportunity for A hearing, MAY decrease or  
22 increase the inspection fee provided in this section, but at no time shall  
23 the rate exceed twenty-five cents per ton.

24 B. Each person who is liable for the payment of such fee shall:

25 1. File, not later than the last day of January, April, July and  
26 October of each year, a quarterly statement, setting forth the number of net  
27 tons of commercial fertilizers distributed in this state during the preceding  
28 calendar quarter. Upon filing the statement such person shall pay the  
29 inspection fee at the rate stated in subsection A of this section. Inspection  
30 fees which are due and owing and have not been remitted to the department  
31 within thirty days following the date due shall have a penalty fee of ten per  
32 cent or ten dollars whichever is larger added to the amount due when payment  
33 is finally made. The assessment of this penalty fee shall not prevent the  
34 director from taking other actions pursuant to this article.

35 2. Keep such records as may be necessary or required by the director  
36 to indicate accurately the tonnage of commercial fertilizer distributed in  
37 this state. The director shall have the right to examine such records to  
38 verify statements of tonnage. Failure to make an accurate statement of  
39 tonnage or to pay the inspection fee or comply as provided in this section  
40 shall constitute cause for cancellation of any or all commercial fertilizer  
41 licenses on file for the distributor.

42 C. Fees collected shall constitute a fund for the payment of the costs  
43 of inspection, sampling, analysis and other expenses necessary for the  
44 administration of this article AND MAY ALSO BE USED TO GRANT MONIES FOR

1 CONDUCTING RESEARCH AND EDUCATION PROJECTS TO ADVANCE THE ENVIRONMENTALLY  
2 SAFE AND AGRONOMICALLY SOUND USE AND HANDLING OF FERTILIZER MATERIAL.

3 D. The director or any officer or employee of the state whose duties  
4 require the compilation of reports based upon the information required by  
5 this section who knowingly compiles or issues any false information or  
6 report, or who knowingly, directly or indirectly, discloses information thus  
7 obtained regarding the business of any person, except with the consent of  
8 such person, or in the form of unidentifiable totals, or as authorized by  
9 section 3-266, is guilty of a class 2 misdemeanor.

10 Sec. 2. Section 3-1206, Arizona Revised Statutes, is amended to read:

11 3-1206. Suspension, revocation or termination of licenses and  
12 agreements; hearing

13 A. Any license issued by the division may be suspended or revoked for  
14 violation or noncompliance with:

- 15 1. Any provision of this title.
- 16 2. Any rule issued pursuant to this title.
- 17 3. Any condition of the license.

18 B. A license or agreement may be suspended, revoked or otherwise  
19 terminated or a civil penalty or other administrative sanction may be imposed  
20 only after AN OPPORTUNITY FOR a hearing conducted pursuant to, OR AS  
21 OTHERWISE ALLOWED BY, title 41, chapter 6, article 10.

22 Sec. 3. Section 3-1372, Arizona Revised Statutes, is amended to read:

23 3-1372. Keeping livestock following seizure; expenses; use of  
24 livestock in criminal prosecution; sale of forfeited  
25 livestock; nonliability of state

26 A. ~~When~~ A livestock officer WHO has seized livestock, as provided by  
27 this article, he shall safely keep and care for it ~~for a period of fifteen~~  
28 ~~days~~ WHILE IT IS UNDER THE DEPARTMENT'S CUSTODY AND CONTROL, during which  
29 TIME any person may inspect the livestock.

30 B. The expense of seizing, feeding and caring for livestock ~~for the~~  
31 ~~initial fifteen day period~~ shall be ~~a charge against the department and~~ paid  
32 from any fund available to the division for that purpose. THE DIVISION SHALL  
33 RECOVER ITS EXPENSES AS PROVIDED BY THIS ARTICLE.

34 C. At any time ~~prior to the expiration of fifteen days after the~~  
35 ~~seizure of~~ BEFORE THE HEARING ON THE OWNERSHIP OF THE livestock, the county  
36 attorney of the county in which the livestock is seized may take charge of  
37 and keep the livestock at the expense of the state when ~~he deems it to be~~ THE  
38 LIVESTOCK IS of evidentiary value in any criminal prosecution arising from  
39 the seizure.

40 D. IF LIVESTOCK IS FORFEITED TO THIS STATE AND ORDERED TO BE SOLD, AS  
41 PROVIDED BY THIS ARTICLE, the department shall cause notice to be posted in  
42 three public places in the precinct where the livestock ~~are~~ IS held stating  
43 that the livestock will be sold at public auction for cash to the highest  
44 bidder. The notice shall be posted for ~~ten days after the livestock have~~  
45 ~~been seized and~~ at least five days before the sale. The notice shall state

1 the location where the livestock will be sold. Proceeds from the sale shall  
2 be transmitted to the department to be deposited in the livestock custody  
3 fund established by section 3-1377, and upon final determination of all  
4 actions arising from the seizure of the livestock the department shall pay  
5 the proceeds, less the hauling charges and expense of feeding and caring for  
6 such livestock, to the persons entitled thereto under the judgment of the  
7 court.

8 E. The director may contract with any person to handle, feed and care  
9 for livestock taken into custody under this section. This state is not  
10 liable for the injury or death of any person or livestock or damage to  
11 property due to performance of the contract.

12 Sec. 4. Section 3-1373, Arizona Revised Statutes, is amended to read:  
13 3-1373. Report of seizure; filing and docketing

14 A. Livestock officers shall forthwith report any seizure of livestock  
15 pursuant to ~~the provisions of this article~~ to the county attorney and to the  
16 clerk of the superior court in the county where the stock was seized or to an  
17 available justice of the peace of the county where the stock was seized whose  
18 office is nearest the place of seizure.

19 B. ~~The report of the livestock officer relating to the seizure of~~  
20 ~~livestock shall:~~

21 1. Give a general description of the livestock seized and the brands,  
22 if any, together with the place of and reason for the seizure and the  
23 probable value of the livestock. ~~and~~

24 2. Request that the owner and claimant be ~~cited~~ SUMMONED to appear and  
25 prove ownership.

26 C. The clerk of the court or the justice of the peace shall ~~file~~:

27 1. CONSIDER the report TO BE A PETITION. ~~and~~

28 2. FILE AND docket it as ~~an~~ A CIVIL action by the state in its name  
29 and against the reputed owners of the livestock, if known, and if not known,  
30 against the unknown owners.

31 Sec. 5. Section 3-1374, Arizona Revised Statutes, is amended to read:

32 3-1374. Setting time for hearing on ownership of seized stock;  
33 issuance of summons

34 A. The clerk of the court or justice of the peace, as the case may be,  
35 after filing and docketing the report of seizure shall enter a brief  
36 statement of the seizure on the docket and set a time for hearing evidence of  
37 the ownership of the livestock, which shall be not less than ten and not more  
38 than twenty CALENDAR days after the date the report is filed.

39 B. The clerk or justice of the peace shall issue a ~~citation~~ SUMMONS  
40 directing all persons claiming all or part of the livestock to appear at the  
41 time set and offer proof of ownership.

42 C. The ~~citation~~ SUMMONS:

43 1. Shall be addressed to those whom it may concern. ~~It~~

44 2. Shall ~~set forth substantially the facts given in~~ BE ACCOMPANIED BY  
45 A COPY OF the report. ~~The citation~~

1           3. Shall be delivered to and served by the livestock officer who made  
2 the seizure or by a constable or sheriff of the county. ~~The citation~~

3           4. Is returnable and shall be heard as in civil actions.

4           Sec. 6. Section 3-1375, Arizona Revised Statutes, is amended to read:

5           3-1375. Service on owner of seized livestock; forfeiture  
6 proceedings on failure to respond

7           A. If the livestock seized is branded and marked with an adopted and  
8 recorded brand or mark, the ~~citation~~ SUMMONS shall be served upon the person  
9 who owns the brand or mark as shown by the division's records if such person  
10 can be found in the county. The service shall be at least one day before the  
11 day set for the hearing. A copy of the ~~citation~~ SUMMONS shall be posted in  
12 at least three public and conspicuous places in the county at least eight  
13 days before the day set for the hearing.

14           B. At the time set for hearing, the livestock officer, or other  
15 officer, shall make return of the ~~citation~~ SUMMONS to the court. If it  
16 appears that due service of the ~~citation~~ SUMMONS has been made, as required  
17 by this section, and no one appears to claim all or part of the livestock so  
18 seized within the time provided, the court shall adjudge the livestock  
19 forfeited to the state and shall order it sold as provided in this article.

20           Sec. 7. Section 3-1376, Arizona Revised Statutes, is amended to read:

21           3-1376. Hearing on claim; release or sale of seized livestock;  
22 appeals

23           A. If any person appears at the time fixed for the hearing and claims  
24 all or part of the livestock, the claim shall be stated and the judge of the  
25 court or justice of the peace shall enter upon the minutes of the court the  
26 fact that the claim is made and the hearing shall proceed as in civil  
27 actions.

28           B. Livestock determined by the court to be owned by any person shall  
29 be released from seizure, upon payment TO THE DEPARTMENT of the hauling  
30 charges and expense of feeding and caring for such livestock. ~~, and~~  
31 Livestock not so adjudged, or the ownership of which is doubtful, shall be  
32 forfeited to the state and ordered sold by the ~~livestock officer~~ DEPARTMENT  
33 at public auction ~~at a convenient public auction~~, upon a fixed date after  
34 notice, as sales of personal property under execution.

35           C. An appeal from the judgment may be taken as in civil actions and  
36 shall be governed by the same rules that apply to appeals from justice courts  
37 or from the superior court, as the case may be.

38           Sec. 8. Section 3-1377, Arizona Revised Statutes, is amended to read:

39           3-1377. Sale of seized stock; disposition of proceeds;  
40 livestock custody fund

41           A. Livestock officers shall execute ~~the~~ AN order of sale made pursuant  
42 to ~~section 3-1376~~ THIS ARTICLE and deliver a bill of sale to the purchaser,  
43 describing the livestock sold and the amount it sold for, and forward to the  
44 division a duplicate of the bill of sale. Upon delivery of the bill of sale,  
45 title to the livestock shall pass to the purchaser.

1       ~~B. Livestock officers shall~~ Immediately after the sale is made, or  
2 after release to the owner who pays the hauling charges and expenses of feed  
3 and care of such livestock, LIVESTOCK OFFICERS SHALL remit the proceeds  
4 ~~thereof~~ OF THE SALE to the department, together with an itemized statement of  
5 the expense of the seizure and sale, which shall be paid as other claims.

6       C. The amount received by the department pursuant to this section and  
7 sections 3-1294, 3-1372, 3-1402, 3-1403 and 3-1721 shall be deposited,  
8 pursuant to sections 35-146 and 35-147, in a special fund designated the  
9 livestock custody fund. On notice from the department, the state treasurer  
10 shall invest and divest monies in the fund as provided by section 35-313, and  
11 monies earned from investment shall be credited to the fund. The fund is  
12 exempt from the provisions of section 35-190 relating to lapsing of  
13 appropriations.

14       D. The livestock custody fund is subject to legislative appropriation  
15 for use by the department for the enforcement of any of the provisions of  
16 this title.

17       Sec. 9. Section 3-1402, Arizona Revised Statutes, is amended to read:  
18       3-1402. Holding and sale of stray animals; repossession before  
19               and after sale; nonliability of state

20       A. ANY PERSON WHO FINDS A STRAY ANIMAL MAY ATTEMPT TO LOCATE AND, IF  
21 LOCATED, NOTIFY THE OWNER WHERE THE ANIMAL MAY BE FOUND. IF THE OWNER IS  
22 UNKNOWN OR CANNOT BE LOCATED, OR THE PERSON ELECTS NOT TO LOCATE OR NOTIFY  
23 THE OWNER, THE PERSON SHALL NOTIFY THE DEPARTMENT AND THE DEPARTMENT SHALL  
24 FOLLOW PROCEDURES PURSUANT TO THIS SECTION.

25       ~~A.~~ B. ~~When~~ A livestock officer or inspector WHO finds OR IS NOTIFIED  
26 OF a stray animal ~~he~~ shall attempt to locate the owner and, if located,  
27 notify ~~him~~ THE OWNER where the animal may be found. If the owner does not  
28 take immediate possession of the animal, or if the owner or claimant ~~thereof~~  
29 is unknown or cannot be located, the livestock officer or inspector shall  
30 hold the stray animal for at least ~~fourteen~~ SEVEN days, BUT SHALL HOLD THE  
31 STRAY ANIMAL UP TO FOURTEEN DAYS AT THE REQUEST OF ANY PERSON OR  
32 ORGANIZATION, and sell it at public auction to the highest bidder for cash,  
33 after giving at least five days' notice of the sale.

34       ~~B.~~ C. The department shall cause notice to be posted in three public  
35 places in the justice precinct where the stray animal is held stating:

36       1. That the stray animal will be sold at public auction for cash to  
37 the highest bidder. ~~The notice shall state~~

38       2. The location where the stray animal will be held and the location  
39 where the animal will be sold.

40       ~~C.~~ D. The owner of a stray animal may take possession of the animal  
41 at any time prior to sale by proving ownership and paying the inspection fee  
42 and all expenses incurred in keeping and caring for the animal.

1        ~~D~~ E. If the owner of the stray does not claim the animal before the  
2 day of sale, or if the owner is unknown or cannot be located, the livestock  
3 officer or inspector shall sell the animal pursuant to the notice, and shall  
4 deliver an invoice of sale or a livestock inspection certificate to the  
5 purchaser. The owner of an animal sold may take possession of it at any time  
6 before the purchaser ~~thereof~~ sells it by paying to the purchaser the purchase  
7 price paid at the sale, together with the expense of keeping and caring for  
8 the animal from the date of sale to the time the owner takes possession of  
9 the animal.

10       ~~E~~ F. Livestock that ~~are~~ IS received at auction markets without  
11 proper documentation but with no evidence of criminal intent by the shipper  
12 may be sold, but the director shall impound the proceeds of the sale in the  
13 livestock custody fund established by section 3-1377. On presentation of  
14 proper documentation of ownership, the director shall pay the proceeds, less  
15 any charges incurred, to the person who is entitled to the proceeds.

16       ~~F~~ G. The director may contract with any person to handle, feed and  
17 care for stray animals taken into custody under this section. This state is  
18 not liable for the injury or death of any person or stray animal or damage to  
19 property due to performance of the contract.

20       Sec. 10. Section 41-2706, Arizona Revised Statutes, is amended to  
21 read:

22       41-2706. Applicability of chapter

23       A. This chapter applies to the solicitation of grants initiated after  
24 August 6, 1999.

25       B. This chapter does not apply to:

26       1. Any grant program that was exempt from chapter 23, article 3 of  
27 this title and for which administrative rules establishing grant solicitation  
28 procedures were adopted pursuant to chapter 6 of this title before August 6,  
29 1999.

30       2. The Arizona board of regents and schools, colleges, institutions  
31 and universities under its control if the Arizona board of regents adopts  
32 rules or policies governing the award of grants that encourage as much  
33 competition as practicable.

34       3. Grants made by the cotton research and protection council for  
35 research programs related to cotton production or protection.

36       4. Grants made by the Arizona iceberg lettuce research council for  
37 research programs under section 3-526.02, subsection C, paragraph 3 or 5.

38       5. Grants made by the Arizona citrus research council for research  
39 programs under section 3-468.02, subsection C, paragraph 3 or 5.

40       6. Grants made by the Arizona grain research and promotion council for  
41 research projects and programs under section 3-584, subsection C,  
42 paragraph 5.

43       7. GRANTS MADE UNDER SECTION 3-268, SUBSECTION C.

APPROVED BY THE GOVERNOR MAY 6, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2008.